IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5085 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SHAMLAJI PRADESH KELAVANI MANDAL
Versus
DY SECRETARY

Appearance:
1. Special Civil Application No. 5085 of 2000
MR JV JAPEE for Petitioner No. 1
MS NANDINI JOSHI, AGP, for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 05/07/2001

ORAL JUDGEMENT

What is challenged in this petition under Article 226 of the Constitution is the order dated 29-6-1999 passed by the State Government in the Social Justice and Rights Department cancelling the registration granted to

the Ashram Shala run by the petitioner-institution.

2. The petitioner was running an Ashram Shala at Village Davali, in Modasa Taluka, Sabarkantha District with grants which were made available by the State Government. On 14-11-1998, inspection squad of the State Government in the Social Justice and Rights Department inspected the Ashram Shala run by the petitioner and on the basis of the irregularities noticed at that time issued show cause notice to the petitioner-institution on 24-11-1998. The petitioner -institution submitted its explanation by letter dated 3-12-1998. Hence there was another inspection by the District Social Welfare Officer on 2-1-1999 and the following irregularities were noticed:

(i) as against enrolled strength of 90 students only 24 were present.

(ii) the toilets and bath rooms were not being adequately used.

(iii) the Principal, one Assistant teacher and one Assistant cook were absent. The school record could not be verified in absence of the Principal.

(iv) the salaries were not regularly paid to the employees. The payment was not being made by cheques.

(v) the grocery store could not be verified.

(vi) the educational qualifications of the employees could not be verified.

(vii) the identity cards of the employees were not issued.

3. After the aforessaid inspection, a personal hearing was given to the petitioner -institution on 30-4-1999 by giving advance notice dated 10-4-1999. The petitioner-institution sought to give explanation for the irregularities alleged against it but the explanation given by the petitioner-institution was not found satisfactory by the State Government. It is specifically observed in the impugned order dated 29-6-1999 that after the first inspection carried out on 14-11-998, second inspection took place on 4-1-1999. If the petitioner-institution was serious about running the institution efficiently and properly, the institution did

have an opportunity to make improvements but even at the time of second inspection, the irregularities noticed were such that the public funds were not required to be wasted. The institution was run in a negligent manner and the school did not appear to be really interested in running the Ashram Shala for the benefit of the children in the backward areas. The State Government accordingly cancelled the recognition.

4. The learned counsel for the petitioner has contended that a copy of the report dated 11-2-1999 of the Director was not supplied to the petitioner and therefore, there was violation of principles of natural justice. In support of the said contention, strong reliance has bee placed on the decision dated 8-5-1996 of the learned Single Judge of this Court passed in Special Civil Application No.2338 of 1996 (Annexure E). Alternatively, it is submitted that in any view of the matter, the irregularities were not so grave as to call for the extreme step of cancellation of registration of recognition. Learned counsel for the petitioner also submitted that by cancellation of recognition, children in village Davali would be without education as there is no other Ashram Shala in this village.

5. Ms. Nandini Joshi, learned A.G.P., for the respondents has opposed the petition and submitted that the petitioner was given personal hearing on 30-4-1999 after two inspections carried out on 14-11-1998 and 4-1-1999. In fact, the petitioner had ample opportunity to make improvements and remove the defects which the petitioner did not do, and therefore, there was no question of any illegality in the impugned order.

6. Learned A.G.P. has further submitted that the petitioner-institution was being given grant by the State Government. The institution was accordingly receiving grant for 90 students enrolled and also for staff members including teaching staff and non-teaching staff on the basis of that strength of students but only 24 students were found present and Principal, Assistant Teacher and Assistant cook alleged to have been employed were not found at the time of inspection. Hence, Government funds were being availed of by the petitioner-institution but were not being utilised and that the Ashram Shala was being run negligently. Apropos the last submission, learned A.G.P. has pointed out that there are Ashram Shalas in villages Tintoi, Gujeri, Navagarudi in same Taluka and the said Ashram Shalas are at a distance of 20 to 30 kms. Hence, she has supported the order passed by the State Government.

7. Having heard the learned counsel for the parties, it appears to the Court that there is no substance in the grievance about violation of principles of natural justice. The authorities had carried out one inspection on 14-11-1998 and the second inspection on 4-1-1999. Hence, the petitioner was put to notice to make improvements. The petitioner was also given personal hearing thereafter on 30-4-1999.

8. As regards the contention that the copy of the report dated 11-2-1999 of the Director was not supplied to the petitioner, and that, therefore, the decision dated 8-5-1996 of this Court in Special Civil Application No.2338/96 will come to the rescue of the petitioner cannot be accepted. In that case, personal hearing of the management of the Ashram Shala took place on 19-10-1995. Thereafter, inspection of the school took place on 15-11-195 about which report was submitted to the Executive Committee of the Board which passed the impugned resolution dated 29-2-1996. Hence, the Court found that after 15-10-1995, the petitioner was not given any opportunity to meet with what transpired after 15-10-1995.

9. In the facts of the present case, after the first inspection of 14-11-1998 and l2-1-1998, the Director submitted the proposal to the State Government for cancellation of the registration or recognition of the State Government on 11-2-1999. Thereafter, the State Government gave the petitioner hearing on 30-4-1999. Hence, the petitioner was given an opportunity of hearing between the last inspection and the impugned order passed by the State Government.

10. As regards the last contention urged on behalf of the petitioner, in view of the facts pointed out by the learned A.G.P., it is clear that there are three other Ashram Shalas in the same Taluka and they are at a distance of only 20 to 30 kms. It is required to be noted that Ashram Shala is a boarding school where children residing in surrounding villages can stay and study. Hence, children residing in village Devali can go to the local regular school. As far as the children of other surrounding villages are concerned, they have been shifted to the three other Ashram Shalas in the same Modasa Taluka as stated by the learned A.G.P.. In view of the above facts, there is no substance in this grievance also.

11. The special civil application is dismissed. Rule

is discharged.

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